

## **6 Official Opinions of the Compliance Board 15 (2008)**

### **NOTICE REQUIREMENTS – METHOD – MEETING NOTICE ON WEBSITE CALENDAR, HELD TO COMPLY WITH THE ACT**

January 11, 2008

*Ms. Michele J. Fluss*

The Open Meetings Compliance Board has considered your complaint that the State Sewage Sludge (Biosolids) Task Force failed to give proper notice of its meeting on November 20, 2007, and, for that reason, failed to hold a genuinely open meeting.<sup>1</sup> For the reasons stated below, we conclude that the Act was not violated.

#### **I**

#### **Complaint and Response**

The complaint acknowledged that the Task Force posted notice of its November 20, 2007, meeting on the “Calendar of Events” website maintained by the Maryland Department of the Environment (“MDE”). The complaint argued, however, that the Task Force had not given public notice that this method of announcing meetings would be used. Specifically, the complaint noted that the Task Force had not issued a press release, as it had previously intended, concerning this method of posting future meeting notices.

In a timely response on behalf of the Task Force, Assistant Attorney General Colleen A. Lamont denied that the Act had been violated. The response confirmed that notice of the November 20 meeting had appeared on the November MDE calendar. The response acknowledged that no press release about future Task Force meetings had been issued, given MDE’s reluctance to do so when “there is no certainty that a newspaper will print a press release.” Instead, “to ensure publication, MDE has included the same language that was initially prepared as a press release” – that is, stating MDE’s intention to give notice of Task Force meetings in its online calendar – in a purchased notice for publication in the *Baltimore Sun*. “This notice should be published before the next Task Force meeting ....”

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<sup>1</sup> Those who attended were permitted to observe. The complaint’s contention is that the allegedly improper notice did not afford the general public the opportunity to attend the meeting and, consequently, the meeting was not an open one.

## II

### Analysis

The Open Meetings Act gives wide latitude to public bodies in choosing a method to notify the public of meetings. One such method, used by the Task Force, is “by posting the notice on an Internet website ordinarily used by the public body to provide information to the public.” §10-506(c)(3)(ii).<sup>2</sup> A prerequisite for this method of notice is that “the public body previously has given public notice that this method will be used.” §10-506(c)(3).

The complaint contended that the “public notice” prerequisite was not satisfied, because the press release announcing that the method would be used was never issued. That MDE originally intended to issue a press release but then did not do so hardly amounts to a violation, however, when the Act does not require a press release or specify any particular format for “public notice.”

In our view, well before November 20, the public was on notice that the MDE Calendar of Events is the place to look for notices of meetings of all component elements of the Department, including the Task Force. The preface to the calendar states as follows: “This site provides a listing of meetings, hearings, and other events pertinent to the functions of the Maryland Department of the Environment.” This language suffices to notify any reasonable member of the public interested in finding out about future meetings of the Task Force to check the calendar. The Task Force was not legally required to use an additional form of public notice. Its additional notice via publication in a newspaper is commendable but not obligatory.<sup>3</sup>

## III

### Conclusion

In summary, the Open Meetings Compliance Board finds that the State Biosolids (Sewage Sludge) Task Force gave adequate notice of its meeting of November 20, 2007.

OPEN MEETINGS COMPLIANCE BOARD

*Elizabeth L. Nilson*  
*Courtney J. McKeldin*  
*Tyler G. Webb*

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<sup>2</sup> All statutory references are to the State Government Article, Annotated Code of Maryland.

<sup>3</sup> In light of our conclusion that the notice of the meeting of November 20 was sufficient under §10-506(c)(3)(ii), we need not consider whether this form of notice was also sufficient under §10-506(c)(4) as “any other reasonable method” of notice.